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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,003	02/11/2004	Norbert Hahn	29020/405A	3398

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EXAMINER	
HARTMANN, GARY S	
ART UNIT	**PAPER NUMBER**
3671	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/777,003	HAHN ET AL.	
	Examiner	Art Unit	
	Gary Hartmann	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hovestad (U.S. Patent 3,671,990) in view of Nordell (U.S. Patent 3,620,027).

Hovestad discloses a dock leveler including a movable deck (15) having a lip extension plate (26) movably coupled to the front end thereof. There are lower support beams (24) affixed to the deck (15). Whether the deck is comprised of a single plate or multiple plates is not disclosed; thereby leaving the decision to one skilled in the art. It is well known to use a plurality of plates coupled adjacent one another to form a deck, as exemplified by Nordell (Figure 1, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a plurality of plates coupled in the manner claimed in order to suit a particular application. This inherently creates a joint extending in the manner claim, as can also be seen in Nordell. Note that there is no patentable distinction between a unitary structure and one made from a plurality of pieces, as the court has held that such a modification is within ordinary skill; *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961).

The support beams meet the recitations regarding the connecting bar. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned a

beam at the joint in order to prevent deformation of the outer edges, as is common when joining adjacent load bearing plates.

Regarding claim 5, welding is a well known means of affixing plates. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have welded the plates of Hovestad in order to obtain a sturdy surface. Further, since the upper surface is subject to use, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have disposed the weld beads below the upper surface in order to minimize wear on the weld beads.

Regarding claims 6 and 7, note that because there are no limitations regarding what is and is not within the scope of the terms "visible" or "variable," these terms would inherently be met by placing adjacent plates together. In other words, a gap would not be so perfectly aligned in every manner that visible detection would be impossible.

Regarding claim 8, there appears to be a frictional pattern shown on the upper right and lower right corners in Figure 1. Additionally, it is well known to use frictional patterns in order to increase safety. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used frictional patterns on the right and left plates in order to maximize safety. Regarding the term "out of registry," again note that there are no limitations regarding the extent to which the pattern must be out of registry. Because perfect alignment (i.e., completely within registry) would be extremely time consuming, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned the patterns out of registry in order to reduce installation time.

Response to Arguments

Applicant's arguments filed November 2, 2005 have been considered but are moot in view of the new grounds of rejection. As applicant requested, an additional reference has been used as a teaching which illustrates that using separate pieces to form a deck is known.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary Hartmann
Primary Examiner
Art Unit 3671

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